

ENTERED

February 07, 2024

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

XU YUAN,	§	CIVIL ACTION No
Plaintiff,	§	4:23-cv-02841
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
ALEJANDRO	§	
MAYORKAS, <i>et al</i> ,	§	
Defendants.	§	

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION**

Plaintiff Xu Yuan proceeds here *pro se*. On August 2, 2023, he filed a Complaint seeking a Writ of Mandamus ordering United States Citizenship and Immigration Services to process his I-589 Application of Asylum and for Withholding of Removal. Dkt. 1.

The matter was referred for disposition to Magistrate Judge Christina A. Bryan. Dkt 4. Pending is a Memorandum and Recommendation dated January 5, 2024. Dkt 8. The Magistrate Judge recommends that this case be dismissed without prejudice for want of prosecution because—despite being informed of his responsibility to effect service and being ordered to file proof of service with the Court—Plaintiff hasn't done so.

The district court reviews *de novo* those conclusions of a magistrate judge to which a party has specifically objected. See FRCP 72(b)(3) & 28 USC § 636(b)(1)(C); see also *United States v Wilson*, 864 F2d 1219, 1221 (5th Cir 1989, *per curiam*). The district court may accept any other portions to which there's no objection if satisfied that no clear error appears on the face of the record. See *Guillory v PPG Industries Inc*, 434 F3d 303, 308 (5th Cir 2005), citing


Douglass v United Services Automobile Association, 79 F3d 1415, 1430 (5th Cir 1996, *en banc*); see also FRCP 72(b) advisory committee note (1983).

None of the parties filed objections. No clear error otherwise appears upon review and consideration of the Memorandum and Recommendation, the record, and the applicable law.

The Memorandum and Recommendation of the Magistrate Judge is ADOPTED as the Memorandum and Order of this Court. Dkt 8.

This case is DISMISSED WITHOUT PREJUDICE. SO ORDERED.

Signed on February 7, 2024, at Houston, Texas.


Hon. Charles Eskridge
United States District Judge